



SANTA MONICA-MALIBU UNIFIED SCHOOL DISTRICT

September 18, 2014

Via U.S. Mail and email to judebrownusa@gmail.com

Jude Brown

EXEMPTION (b)(6) - Personal Privacy (all redactions)

[REDACTED]
[REDACTED]

Re: [REDACTED]

Dear Ms. Brown:

This letter is written on behalf of the Santa Monica-Malibu Unified School District and concerns your daughter, student [REDACTED]. Specifically, this letter responds to your stated concerns regarding the safety of District school site Juan Cabrillo Elementary School ("Juan Cabrillo"); your request for independent study for [REDACTED] and your request for a copy of the Comprehensive School Safety Plan for Juan Cabrillo.

As a preliminary matter, I want to take this opportunity to respond to your concern expressed in an email dated August 22, 2014, from you to Juan Cabrillo Principal, Dr. Pam Herkner. In that email, you stated that you are "deeply concerned about the lack of testing at our Malibu schools to see what we really are dealing with concerning PCB's in the window caulking." The District certainly takes your concerns seriously, and the health, safety and welfare of our students is the District's top priority.

In response, I assure you that the District has taken measures to ensure that the buildings at Malibu High School and Juan Cabrillo are safe for students and staff. These measures include contracting with an independent third party, Environ International, to conduct environmental testing of soil, air and surface samples at both campuses. These air and soil samples have consistently shown PCB levels that are either undetected or that are well below the standards and benchmarks set by the United States Environmental Protection Agency ("EPA"). Based on the data from these environmental tests, Environ International reported that both Malibu High School and Juan Cabrillo are safe and fit for use by students and staff.

Indeed, this conclusion is supported by the EPA. On August 14, 2014, EPA officials issued a letter to validate the District's environmental testing program, noting that, the "District is meeting EPA national guidelines to protect public health from PCBs in schools by addressing the human exposure pathways of greatest concern, namely air, dust and soil." Moreover, in response to the District's inquiry regarding whether additional testing is necessary, the EPA stated that, they do "not recommend additional testing of caulk unless dust or air samples persistently fail to meet EPA's health based guidelines." As the samples taken from District schools meet the EPA guidelines, it follows that, additional testing is not warranted at this time.

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Board of Education: Ben Allen • Oscar de la Torre • José Escarce • Maria Leon Vazquez • Laurie Lieberman • Ralph Mechur • Nimish Patel
Sandra Lyon, Superintendent

However, I note that, even in light of the above, and even though the Toxic Substances Control Act (TSCA) does not require schools to test caulk for PCBs, the District has nevertheless taken an aggressive stance on ensuring on-going compliance with the TSCA and the safety of our school communities. To that end, the District has voluntarily proposed to remove caulk from the Malibu High School campus, as well as to remove light fixtures associated with previously removed PCB-containing ballasts at both Malibu High School and Juan Cabrillo. The removal of these items will be overseen by the EPA. Further, the District will collect additional data during the schools' winter break (2014-2015 school year) and at the end of the 2014-2015 school year.

The District has been, and remains, transparent regarding the environmental testing and the results of that testing. All of the testing data and reports are available to the public online on the District's website at the following address: <http://www.smmusd.org/PublicNotices/Malibu.html>.

Based on the above, and the validation by the EPA, the District respectfully disagrees with your position that further testing of the caulk at Malibu High School or Juan Cabrillo is necessary at this time. However, in keeping with the District's commitment and obligation to student and staff safety, please be assured that the District will continue its long-standing practice of monitoring all of our school sites for potential hazards and health risks.

Request for Independent Study

Based on your concerns about exposure to PCBs at Juan Cabrillo, you have requested that the District allow to be excused from any classes in Building F (rooms 16-23). You have proposed either (a) allowing you to come to the school site during computer lab, science lab and art class, being given the curriculum and materials from the teachers, and allowing you to provide the instruction of the curriculum to your daughter during these times (i.e., independent study); or (b) allowing you to remove [REDACTED] from the campus entirely during art, computer lab and science lab, being given the curriculum, and then returning for the rest of the instructional school day.

The District denies your request. As stated above, both an independent third-party environmental tester and the EPA concur that the Juan Cabrillo school site is safe and does not pose a threat to students or staff with regard to PCBs. Accordingly, while the District understands that you have concerns, without more, these concerns are not a basis for granting an independent study.

Additionally, it is within the District's discretion as to whether or not to grant a student's request for an independent study course. (See District Administrative Regulation, or "AR," 6158; Cal. Ed. Code § 51745.) This was made clear to you in the July 30, 2104, email from David Kopperud of the California Department of Education ("CDE"), which you forwarded to Dr. Herkner on August 22, 2014. Indeed, Mr. Kopperud explains in his email that the decision to grant an independent study request "is made by the local governing board of the school district."¹ District policy

¹ The District notes that Mr. Kopperud's July 30, 2014, email responds to your inquiry (also dated July 30, 2014) to the CDE wherein you alleged that District schools are unsafe and that the environmental testing is inadequate. Based on these factual inaccuracies provided to Mr. Kopperud, the CDE opined that you were "describing a unique situation and the governing board *could* decide that Independent Study is a good option in the present situation." [Emphasis added.] The District does not interpret this statement to require the District to grant your request for independent study. Rather, Mr. Kopperud's advice makes clear that, while

provides that, approval for participation shall be based on the following criteria: (1) evidence that the student will work independently to complete the program and (2) availability of experienced certificated staff with adequate time to effectively supervise the student. (See AR 6158.) In addition, "independent study may be offered only to students who can achieve in this program as well as or better than they would in the regular classroom." (See Board Policy, or "BP," 6158.)

In this case, [REDACTED] is in the first grade and will not be able to work independently to complete the required curriculum. Rather, as you noted, she will require individual instruction beyond that of supervision by an experienced certificated staff member. Moreover, even if [REDACTED] could achieve *academically* in an independent study program as well as she would in a regular classroom, she will be isolated from her peer group and miss out on the opportunity to engage with other children during less structured academic time, *i.e.*, during "specials," when her class is assigned to Room 19. This social-emotional development is a critical part of any first grader's achievement and growth and must be considered when determining whether independent study is an appropriate option. Accordingly, based on the above, [REDACTED] does not meet the criteria for independent study.

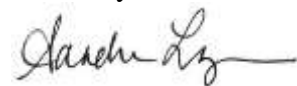
Finally, District Board policy and state law subject [REDACTED] to compulsory full time education. (Cal. Ed. Code § 48200.) As such, absences from school shall be considered "excused" for a limited number of reasons, including: illness; quarantine under the direction of a county or city health officer; for a medical appointment; to attend the funeral services of an immediate family member; to serve jury duty; due to the illness or medical appointment of a child of whom the student is the custodial parent; for justifiable personal reasons (*e.g.*, court appearance, observance of a religious holiday); for serving as a member of a precinct board for an election; and, at the discretion of the superintendent of the school district, for purposes of spending time with a member of the student's immediately family who is an active duty member and has been called to duty, or who is on leave from, or has immediately returned from, deployment to a combat zone or combat support position. (Cal. Ed. Code § 48205.)

In this case, your concerns about the safety of Room 19 do not constitute a valid basis for [REDACTED] to be absent and excused from school. Thus, if [REDACTED] is absent from school during the time that she is regularly assigned to Room 19, and does not have a valid excuse for that absence, please be advised that the District may consider her truant.

Conclusion

Thank you for sharing the District's commitment to a safe and healthy school environment for all District students. It is my hope that the above explanation will allay your concerns. However, if you have further questions, please do not hesitate to contact my office in order to discuss the matter further.

Sincerely,



Sandra Lyon
Superintendent

the facts you presented (regardless of their accuracy) may present a unique situation, it remains within the District's Board's discretion as to whether to grant an independent study request.